IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6592 OF 2004

Office Note, Office Memoranda of Coram appearance, Corut's orders or directions and Registrar's Orders:

Court's or Judge's Orders

Mr.Nitin Nikam with Ms. Ranjana Todankar, for the petitioners
Mr. N.V. Masurkar with Mr. R.K. Sharma, for Respondent Nos. 1 to 3.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 10th March, 2005

P.C.

. The petitioners were appointed as sweepers in the pay of Rs.350/- per month by office order dated 23rd July, 1992. They filed several O.A., which are by Ashok Shureshwar Chaudhary being O.A. No.700 of 1999, Ashok Ramji Gaikwad being O.A. No.701 of 1999 and Akhlak Ahmad Yousuf Khan Pathan being O.A. No.702 of 1999. Their case was that they should be treated as casual employees and be given benefit of the casual labourers, grant of temporary status and regularisation scheme of 1981. The Tribunal on hearing the contentions was pleased to hold that as the petitioners are working on part-time basis they could not be considered as casual labour, in the manner that the system of casual labour operates with the Government and hence benefits are not available and consequently dismissed the Original Applications.

2. The learned Counsel points out that though originally they were appointed on contract basis there have been no further orders and they are continuously working. Our attention is also invited to a letter whereby the petitioner No.1 is shown as working in the office continuously for full time on a sweeper's post on account of absence of the incumbent. Our attention is also invited to a judgment of a learned Bench of this Court in Writ Petition No.4499 of 2001 dated 24th September, 2001. A perusal of the said order would indicate that the learned Division Bench did not choose to interfere considering the directions therein.

3. We have heard learned Counsel for the parties. It is the stand of the Respondent State that casual employees are muster employees employed on a monthly basis. The petitioners, therefore, could not be treated as casual employees. Our attention is invited to the judgment of the Apex Court in **Union of India & Anr. vs. Mohan Pal & Ors., (2002) 4 SCC 573** to point out that the said scheme for regularisation of casual labour was a one time scheme and it would not apply to casual labour appointed thereafter. In the instant case admittedly when they were appointed in 1992 they were specifically

appointed on contract basis. The scheme is of the year 1992. Therefore, that scheme would not be applicable to them. Even otherwise in the matter of regularisation the Apex Court has now exhaustively laid down the law in the case of **A.Umarani vs. Registrar, Co-operative Societies & Ors., 2004 (7) SCC 112.** Considering the judgment of the Apex Court in Mohan Pal & Ors. (supra) and A. Umarani (supra) we find no reason to interfere with the impugned order of the Tribunal which otherwise does not suffer from any error apparent on the face of the record. No interference called for. Petition rejected.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)